

ATTACHMENT 70

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE)
COMPANY, INC.,) Case No.:
) 3:21-cv-03496-VC
Plaintiff,)
) Lead Case No.:
vs.) 3:21-cv-03825-VC
)
INTUITIVE SURGICAL, INC.,)
)
Defendant)
)
IN RE: DA VINCI SURGICAL ROBOT)
ANTITRUST LITIGATION)
)
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
)

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30(b)(6) DEPOSITION OF:

KEITH ROBERT JOHNSON

THURSDAY, OCTOBER 27, 2022

9:06 a.m. Mountain Standard Time

REPORTED BY:
Vickie Blair
CSR No. 8940, RPR-CRR
JOB NO. 5539883
PAGES 1 - 122

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1 Repair, LLC, and Benjamin Biomedical, Inc. 09:22:02

2 So let's start first with Rebotix Repair, 09:22:06

3 LLC. 09:22:10

4 Does SIS currently have any sort of 09:22:12

5 business relationship with Rebotix? 09:22:15

6 MR. VAN HOVEN: Object to form. 09:22:18

7 MR. CHAPUT: You can go ahead and answer. 09:22:23

8 THE WITNESS: Yes. 09:22:26

9 BY MR. CHAPUT: 09:22:26

10 Q What is SIS's current business 09:22:26

11 relationship with Rebotix? 09:22:29

12 A Let me -- let me step back and ask you one 09:22:39

13 quick question. 09:22:41

14 Rebotix Repair, R-e-b-o-t-i-x is the 09:22:41

15 company that we're referring to? 09:22:46

16 Q That's correct. 09:22:47

17 A Okay. Let me step back then, I'm sorry. 09:22:48

18 We currently don't do any business with 09:22:51

19 Rebotix Repair. 09:22:53

20 Q Okay. Thank you for that clarification. 09:22:54

21 A I apologize for that. 09:22:56

22 Q No problem. 09:22:57

23 And so my first set of questions are going 09:22:58

24 to focus just on that one company -- 09:23:01

25 A Okay. 09:23:01

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1 Q -- Rebotix Repair, just so we're clear. 09:23:04

2 Did SIS previously have a business 09:23:06

3 relationship with Rebotix? 09:23:10

4 A Yes. 09:23:11

5 Q And what was the nature of SIS's 09:23:11

6 relationship with Rebotix? 09:23:14

7 A We were working with them to offer a 09:23:15

8 repair program on Intuitive EndoWrists. 09:23:22

9 Q When did SIS's relationship with Rebotix 09:23:27

10 end? 09:23:31

11 A I don't think we would say that it's 09:23:31

12 ended, I would say that, because of practices from 09:23:41

13 Intuitive, it was -- it was shut down, and so we 09:23:46

14 haven't been doing that business currently in the U.S. 09:23:49

15 market. 09:23:54

16 Q Is SIS doing business with Rebotix outside 09:23:54

17 of the U.S. market currently? 09:24:00

18 A No. 09:24:02

19 Q And, when you say that the business with 09:24:02

20 Rebotix was "shut down," what do you mean by that? 09:24:11

21 A We had started providing repair services 09:24:14

22 to facilities in the U.S. on EndoWrists, and through 09:24:20

23 the practice of -- practices of Intuitive of letters 09:24:25

24 and monopolistic practices and threats to hospitals, 09:24:28

25 the -- the program -- we, as an organization, decided 09:24:33

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1 Rebotix? 09:26:02

2 MR. VAN HOVEN: Object to form. 09:26:02

3 THE WITNESS: I don't know that I can 09:26:03

4 answer that, I would -- I would say that we would look 09:26:09

5 at all options for a supplier or partner to work with 09:26:12

6 on that program. 09:26:15

7 BY MR. CHAPUT: 09:26:16

8 Q Does SIS have the capability to run an 09:26:18

9 EndoWrist repair program on its own? 09:26:22

10 MR. VAN HOVEN: Object to form. 09:26:28

11 THE WITNESS: I would -- I -- I guess 09:26:28

12 that's kind of a -- if I understand the question -- can 09:26:44

13 you ask me that question again? 09:26:55

14 BY MR. CHAPUT: 09:26:56

15 Q Sure. 09:26:56

16 Does SIS have the capability to run an 09:26:56

17 EndoWrist repair program on its own? 09:27:00

18 MR. VAN HOVEN: Object to form. 09:27:02

19 THE WITNESS: Not currently. 09:27:12

20 BY MR. CHAPUT: 09:27:17

21 Q Would you describe for me the -- the 09:27:19

22 EndoWrist repair program that SIS was previously 09:27:24

23 running with Rebotix? 09:27:27

24 A We were working with hospitals to repair 09:27:33

25 their EndoWrists and prolong the useful life of those 09:27:38

1 and independent studies that they did, we felt really 09:43:18
2 good about the data that had been collected and the 09:43:25
3 testing that was done by the independent organizations 09:43:27
4 and felt really good about that, taking into 09:43:34
5 consideration the relationship we had with them, the 09:43:37
6 longevity of the relationship, and the data testing 09:43:39
7 they had, we felt really good, so we felt good about 09:43:42
8 that process. 09:43:47

9 BY MR. CHAPUT: 09:43:47

10 Q Apart from reading the testing and 09:43:50
11 independent studies that Rebotix provided to SIS, did 09:43:51
12 SIS take any other steps to confirm that the chip 09:43:59
13 replacement process did not impacts the EndoWrist's 09:44:01
14 functionality? 09:44:11

15 A Not that I know of. 09:44:12

16 Q Did SIS do anything to confirm that the 09:44:13
17 chip replacement process did not impact the EndoWrist's 09:44:15
18 safety? 09:44:19

19 MR. VAN HOVEN: Objection to form. 09:44:21

20 THE WITNESS: The studies that we saw 09:44:32
21 provided us the information that we felt good about the 09:44:34
22 safety and functionality of those devices. 09:44:37

23 BY MR. CHAPUT: 09:44:39

24 Q So apart from reading the testing and the 09:44:39
25 independent studies that Rebotix provided to SIS, SIS 09:44:45

1 did not take any other steps to confirm that the chip 09:44:47

2 replacement process did not impact the EndoWrist's 09:44:51

3 safety? 09:44:53

4 A Not that I'm aware of. 09:45:01

5 Q Did SIS ever enter into a written 09:45:06

6 agreement with Rebotix regarding this EndoWrist 09:45:09

7 service? 09:45:12

8 A I believe that we did. 09:45:21

9 Q And when -- when would that have happened? 09:45:22

10 A If I remember correctly, it was October of 09:45:30

11 '19. 09:45:32

12 Q Apart from the EndoWrist business that 09:45:50

13 you've been describing, has SIS had any other business 09:45:53

14 relationship with Rebotix specifically? 09:45:55

15 A Not that I know of. 09:46:01

16 Q Can you -- can you walk me through how the 09:46:04

17 Rebotix Repair service worked from the SIS customer's 09:46:14

18 perspective, please. 09:46:18

19 A Can -- can you elaborate what you mean? 09:46:19

20 Q Sure. 09:46:26

21 So how did a customer go about having a -- 09:46:26

22 an EndoWrist repaired through this SIS Rebotix program 09:46:30

23 that you've described? 09:46:36

24 A So the nature of our business, we're a 09:46:36

25 national company, so we work in all the regions around 09:46:44

1 the country, so we have team members and reps on the 09:46:48
2 ground, and we work with hospitals on a daily basis 09:46:51
3 picking up items and devices in need of service, 09:46:54
4 getting those to one of our labs, they are serviced and 09:46:57
5 then returned to the facility. 09:47:02

6 So this Rebotix program that we were 09:47:03
7 providing fell right in line with what we were doing 09:47:05
8 every day. 09:47:10

9 Q Was the service performed at one of SIS's 09:47:10
10 labs? 09:47:16

11 MR. VAN HOVEN: Objection to form. 09:47:18

12 THE WITNESS: We were -- every discussion 09:47:19
13 we had was about bringing it in-house and doing it 09:47:27
14 ourselves. In fact, a couple members of their team 09:47:29
15 came to Chicago and worked in our lab with us, and 09:47:37
16 our -- some of our technicians that were going to be 09:47:41
17 involved in this program were part of that, so we were 09:47:44
18 absolutely going to be doing this service in-house. 09:47:48

19 BY MR. CHAPUT: 09:47:51

20 Q Okay. So you said that you were "going to 09:47:51
21 be doing it in-house." 09:47:53

22 My question was: Did SIS ever actually 09:47:54
23 perform the service in-house? 09:47:57

24 A No. 09:47:58

25 Q So for all of the EndoWrist repairs that 09:48:00

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1 SIS facilitated, those repairs were actually performed 09:48:05

2 by Rebotix; correct? 09:48:09

3 MR. VAN HOVEN: Objection to form. 09:48:11

4 THE WITNESS: Correct. 09:48:12

5 BY MR. CHAPUT: 09:48:23

6 Q And those were performed at Rebotix's 09:48:23

7 facility and not SIS's? 09:48:27

8 A I don't remember specifically if, when 09:48:40

9 some of the Rebotix team was in our Chicago lab, if any 09:48:42

10 repairs were done, but to the best of my knowledge I 09:48:46

11 believe they were all done in the Rebotix's facility. 09:48:52

12 Q Was SIS's arrangement with Rebotix 09:48:54

13 exclusive or did Rebotix also have other distributors 09:48:58

14 it was working with? 09:49:01

15 A I think initially they had exclusivity; 09:49:13

16 when we came on board, I don't remember if it was 09:49:19

17 exclusively or not. 09:49:22

18 Q Did Rebotix source some of its own 09:49:22

19 customers, as well, or did its customers come 09:49:25

20 exclusively through SIS? 09:49:28

21 A Rebotix had some of their own customers. 09:49:32

22 Q How did SIS and Rebotix end up entering 09:49:44

23 into this -- this relationship around the EndoWrist 09:49:52

24 repair business? 09:49:55

25 A Like I had stated before, we have a 09:49:56

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1 longstanding relationship with Benjamin Biomedical. 09:50:00
2 We -- Greg and I were attending an AAMI conference, and 09:50:07
3 Chris and his team were there from Rebotix, and they 09:50:10
4 were presenting this program, and Greg and I spent some 09:50:15
5 time with them there, and that was the -- when we 09:50:20
6 learned about it, that was what sparked that trip when 09:50:23
7 Greg and I went to Florida to actually see this process 09:50:27
8 and this program. 09:50:31

9 Q What's an AAMI conference? 09:50:33

10 A I do not remember what the acronym stands 09:50:36
11 for, but it's basically one of the national conferences 09:50:39
12 for biomedical engineering. 09:50:42

13 Q And how is AAMI spelled? 09:50:45

14 A A-A-M-I. 09:50:47

15 Q And when was the AAMI conference when you 09:50:48
16 met with Rebotix and heard about their EndoWrist 09:50:58
17 business? 09:51:00

18 A It would have -- it would have been in the 09:51:05
19 spring of '19, and we go to so many conferences, so 09:51:07
20 I'll apologize and tell you I don't remember what 09:51:10
21 month. I believe it was June of '19. 09:51:14

22 Q How did the pricing work for the EndoWrist 09:51:19
23 repair service with Rebotix? 09:51:26

24 A What aspect of pricing? Customer pricing? 09:51:35

25 Q Let's start with customer pricing, yes. 09:51:39

1 Q Does SIS have plans to work with Restore 10:04:06
2 on a repair program in the future? 10:04:13
3 A Yes. 10:04:15
4 Q Under what circumstances does SIS plan to 10:04:17
5 work with Restore program -- excuse me. 10:04:25
6 Under what circumstances does SIS plan to 10:04:27
7 work with Restore on a repair program in the future? 10:04:30
8 A We are working with Restore to develop a 10:04:34
9 repair program for the Xi instruments. 10:04:41
10 Q Does SIS plan to work with Restore on a 10:04:45
11 repair program for Si instruments at any point in time? 10:04:50
12 A Based on the current status of Si robots 10:05:04
13 in the United States, we don't see a huge value in 10:05:06
14 continuing that endeavor. 10:05:09
15 Q And, when you say "the current status," 10:05:10
16 are you referring to the number of Si robots that are 10:05:18
17 currently in service? 10:05:21
18 A Correct. 10:05:24
19 Q What role does SIS play in developing a 10:05:24
20 repair program for Xi instruments with Restore? 10:05:38
21 A We are providing financial support in the 10:05:51
22 R&D, we are also providing help in the testing process, 10:05:53
23 bringing customer opinions and expertise to help in 10:06:07
24 that process. 10:06:13
25 Q What sort of help is SIS providing in the 10:06:14

1 testing process? 10:06:18

2 A I'm not involved in the engineering and 10:06:18

3 the technical side of that, so what I'm personally 10:06:26

4 providing is more of a customer feedback, customer 10:06:29

5 thoughts, customer interest in that program, and what 10:06:35

6 it would mean to health care. 10:06:38

7 Q Describe for me the customer feedback and 10:06:39

8 customer thoughts, customer interests in that program, 10:06:47

9 please. 10:06:50

10 A How much time do we have? 10:06:50

11 Q Describe it at a high level to start with, 10:06:54

12 and we can -- 10:06:58

13 A Since this program started, the interest 10:07:01

14 from the hospital is monumental, through the roof. 10:07:03

15 The -- the interest in saving and reducing costs on 10:07:11

16 robotic surgery in the industry is something I've never 10:07:15

17 seen before in my 25 years of being in the surgical 10:07:17

18 business. 10:07:22

19 Q What hospitals have you spoken with about 10:07:23

20 the Xi program? 10:07:27

21 A Would you like me to list them? 10:07:29

22 Q Yes, please. 10:07:35

23 A This will be from the top of my head, so 10:07:36

24 I'll do the best I can, but well over -- the meetings 10:07:40

25 that we've had represent well over a thousand 10:07:46

1 hospitals, probably. 10:07:48

2 Facility level, I'll just start to kind of 10:07:53

3 name them off regionally. Legacy Health system in 10:07:56

4 Portland, Oregon; Providence health system in the West 10:08:00

5 Coast; Sutter Health; Kaiser Permanente; memorial care; 10:08:04

6 the UC system in California; Banner Health System; 10:08:16

7 Honor Health; Baylor Scott & White in Texas; the 10:08:21

8 university health systems across the country, from 10:08:31

9 Michigan to Duke to North Carolina; Mayo Clinic; 10:08:35

10 Cleveland Clinic; Advocate Aurora; Lahey Health System; 10:08:50

11 Boston Children's Medical Center. 10:08:55

12 I can't believe I'm remembering all this 10:08:57

13 off the top of my head. 10:09:00

14 Piedmont health system, Grady in Atlanta, 10:09:02

15 Johns Hopkins. 10:09:13

16 That's the bulk of the direct hospitals 10:09:14

17 that I can recall having direct conversations with; 10:09:25

18 there's obviously much more than that. 10:09:27

19 And then, in addition to that, all the 10:09:29

20 Vizient conversations we've had, I've presented to all 10:09:33

21 four regions of Vizient, which basically covers well 10:09:41

22 over 2,000 hospitals in the United States. 10:09:45

23 Q Have you spoken with any of those 10:09:48

24 hospitals about the need for an EndoWrist repair 10:10:09

25 program to have FDA clearance? 10:10:11

1 A I don't know if I understand what you're 10:10:20
2 asking me. 10:10:21

3 Q Have any of those hospitals told you that 10:10:22
4 they would be willing to purchase EndoWrist repair 10:10:29
5 services that were not cleared by the FT -- FDA? 10:10:33

6 MR. VAN HOVEN: Objection to form. 10:10:40

7 MR. SNYDER: Objection to form. 10:10:42

8 THE WITNESS: So I've been in the repair 10:10:42
9 business for well over 20 years, repairs don't require 10:10:44
10 FDA clearance, and to my recollection, nobody in any of 10:10:49
11 my conversations every brought up FDA clearance on the 10:10:58
12 repair. 10:11:01

13 BY MR. CHAPUT: 10:11:02

14 Q Does the Xi -- maybe let's -- let's step 10:11:02
15 back. 10:11:05

16 Does the Xi repair business that SIS is 10:11:06
17 exploring with Restore involve extending the number of 10:11:12
18 lives that an EndoWrist can be used for? 10:11:18

19 A We are currently working on developing a 10:11:20
20 program to extend the life of Xi instruments. 10:11:31

21 Q And is that the program that you have 10:11:34
22 spoken with hospitals about? 10:11:36

23 A The initial conversations we had with 10:11:47
24 hospitals was around the repair program of Si. 10:11:49
25 We then went to our recovery program, 10:11:57

1 which does not extend the life of the device, and we 10:12:00
2 have not talked about the Xi repair program because we 10:12:03
3 do not have those capabilities as of today. 10:12:08

4 Q So when you're describing the 10:12:10
5 conversations that you've had with that -- that long 10:12:12
6 list of hospitals, were those conversations specific to 10:12:15
7 the Si repair program or the recovery program? 10:12:20

8 A A little of both. Over the last 18 months 10:12:26
9 or so, all the conversations are around recovery and, 10:12:31
10 like we had said, before there's not a lot of Si robots 10:12:38
11 in the U.S., as you know, so that conversation is 10:12:42
12 pretty much expired. 10:12:45

13 MR. VAN HOVEN: Counsel, we're at about a 10:13:00
14 little over an hour, maybe a break in the -- now or the 10:13:03
15 next a few minutes. 10:13:08

16 MR. CHAPUT: Yeah, a few minutes we should 10:13:09
17 be able to take one. 10:13:13

18 BY MR. CHAPUT: 10:13:14

19 Q So, Mr. Johnson, with respect to SIS's 10:13:19
20 efforts with Restore to develop this Xi extended life 10:13:28
21 program, what is the timeline on that effort? When 10:13:32
22 does SIS expect for that to be available to provide to 10:13:37
23 customers? 10:13:41

24 MR. VAN HOVEN: Objection to form. 10:13:43

25 THE WITNESS: I don't know that I have a 10:13:49

1 So there were a number of original 10:34:01
2 conversations that people would say, "We are not 10:34:04
3 allowed to repair our instruments, Intuitive does not 10:34:08
4 allow us to do that, even though we own the devices, 10:34:11
5 our contract does not allow us to repair them." 10:34:13

6 So we were working through a lot of that 10:34:20
7 with legal and risk at a lot of these big 10:34:22
8 organizations. 10:34:24

9 The recovery program, people are willing 10:34:24
10 to talk about because it doesn't -- like, it doesn't 10:34:27
11 affect -- it's not a repair. 10:34:31

12 BY MR. CHAPUT: 10:34:42

13 Q And even though the recovery program is 10:34:43
14 not a repair, there are still customers who have 10:34:46
15 decided not to use that program; is that -- is that 10:34:50
16 correct? Am I understanding that correctly? 10:34:55

17 A I would say that's correct. 10:34:57

18 Q Is SIS seeking damages for its recovery 10:35:07
19 program in this case? 10:35:15

20 A I don't know the specifics of the damages, 10:35:26
21 but I would say that our interest is -- is the lack of 10:35:30
22 business across all of our robotic programs against 10:35:36
23 Intuitive. 10:35:43

24 Q Does SIS have any robotic programs, other 10:35:47
25 than those that we've already discussed today? 10:35:53

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1 Q Had corporate compliance and legal 10:47:31
2 reviewed the documents that you attached to your 10:47:34
3 September 25, 2019, email? 10:47:38
4 A I was not involved in that internal 10:47:40
5 process. I was given these documents by Greg Posdal, 10:47:47
6 so at that point, I assumed that the legal stuff that 10:47:54
7 needed to be done on SIS's side had been completed. 10:47:58
8 Q I'd like for you to turn, please, to the 10:48:00
9 first attachment here, which has the ending Bates 119, 10:48:05
10 and the title of this is "da Vinci EndoWrist Repair 10:48:09
11 FAQs." This document goes through the page ending 123. 10:48:13
12 Do you recognize the da Vinci EndoWrist 10:48:22
13 repair FAQs document? 10:48:25
14 A Yes. 10:48:27
15 Q Who at SIS wrote the da Vinci EndoWrist 10:48:27
16 repair FAQs? 10:48:33
17 A This document was not written by SIS. 10:48:43
18 Q Who wrote it? 10:48:46
19 A This was given to us by Rebotix. 10:48:46
20 Q Did SIS review the da Vinci EndoWrist 10:48:58
21 repair FAQs before sending them to customers? 10:49:02
22 A Yes. 10:49:07
23 Q Did SI- -- who -- who at SIS re- -- excuse 10:49:08
24 me. 10:49:14
25 Who at SIS reviewed the da Vinci EndoWrist 10:49:14

1 repair FAQs before they were sent to SIS's customers? 10:49:18

2 A Greg Posdal, myself, and one or two 10:49:31

3 members of our marketing team that added the logo, the 10:49:33

4 SIS logos and things like that. 10:49:38

5 Q Does SIS make any changes to the FAQs? 10:49:41

6 A Other than adding our name and our logo? 10:49:48

7 Q Sure, other than adding your name and 10:49:52

8 logo, did SIS make any changes to the FAQs? 10:49:54

9 A Not that I know of. 10:49:57

10 Q Did SIS confirm the accuracy of the 10:49:59

11 statements that appeared in the FAQs? 10:50:02

12 A I know that Greg spoke at length with 10:50:13

13 Chris Gibson and his team about all of this testing 10:50:16

14 data and all of this information prior to us providing 10:50:21

15 this to our customers. 10:50:24

16 Q Apart from Greg's conversations with Chris 10:50:26

17 Gibson, did SIS do anything to confirm the accuracy of 10:50:31

18 the statements that appeared in the FAQs? 10:50:35

19 A Not that I'm aware of. 10:50:44

20 Q You can turn to the second page of the 10:50:46

21 document first, there's a question at the top (as 10:50:50

22 read): 10:50:50

23 Can you send me your certification, 10:50:51

24 slash, FDA approval? 10:50:54

25 Do you see that section? 10:50:56

1	A	Can you give me a page number?	10:50:58
2	Q	Sure.	10:50:59
3		120.	10:51:00
4	A	Okay.	10:51:13
5	Q	And the response to that question is (as	10:51:13
6		read):	10:51:13
7		The FDA does not regulate, nor	10:51:15
8		certify repairs.	10:51:18
9		Correct?	10:51:20
10	A	Correct.	10:51:22
11	Q	And so SIS had decided that the service it	10:51:23
12		was offering for EndoWrist was a repair, not a	10:51:26
13		reprocessing; is that right?	10:51:28
14		MR. VAN HOVEN: Objection to form.	10:51:30
15		THE WITNESS: Correct.	10:51:37
16		BY MR. CHAPUT:	10:51:37
17	Q	Who at SIS decided that was correct?	10:51:37
18	A	Greg Posdal.	10:51:39
19	Q	And how did SIS reach the conclusion that	10:51:48
20		the service that was being offered was a repair and not	10:51:50
21		reprocessing?	10:51:54
22		MR. VAN HOVEN: Objection to form.	10:51:55
23		THE WITNESS: The Posdal family has been	10:52:01
24		in the repair business for 50 years, and, based on that	10:52:03
25		expertise and the knowledge that he has and the data	10:52:06

1 provided, we felt that it was a repair. 10:52:11

2 BY MR. CHAPUT: 10:52:16

3 Q Apart from the Posdal family's background 10:52:20

4 and the information provided by Rebotix, did SIS 10:52:27

5 perform any other analysis of whether the service it 10:52:33

6 was offering was a repair and not reprocessing? 10:52:36

7 MR. VAN HOVEN: Objection to form. 10:52:39

8 THE WITNESS: Not that I'm aware of. 10:52:48

9 BY MR. CHAPUT: 10:52:50

10 Q In 2019 when SIS entered into its 10:52:52

11 relationship with Rebotix, was it aware that a Rebotix 10:52:56

12 entity submitted a 510K application to FDA in 2014 10:52:59

13 regarding the Rebotix interceptor chip? 10:53:05

14 A I don't recall being told the specific 10:53:13

15 dates, but we were made aware of the fact that they had 10:53:16

16 filed a 510K. 10:53:21

17 Q And just to make -- to make sure I'm 10:53:23

18 clear, the interceptor chip is the trade name that 10:53:26

19 Rebotix used for the chip that it -- it places to 10:53:30

20 circumvent the use counter; is that right? 10:53:34

21 MR. VAN HOVEN: Objection to form. 10:53:37

22 THE WITNESS: I don't know that I'm 10:53:42

23 familiar with the word "interceptor," I just know that 10:53:43

24 they had filed a 510K to be able to rechip the devices. 10:53:46

25 /// ///

1 than what exists in an original EndoWrist; correct? 10:56:26

2 A I believe so, yes. 10:56:28

3 Q And I think you described that the 10:56:38

4 replacement chip is -- is added on top of the existing 10:56:40

5 chip in an EndoWrist device; is that right? 10:56:44

6 A The Rebotix chip? 10:56:51

7 Q Correct. 10:56:53

8 A Yes, I believe that to be true. 10:56:55

9 Q If you look in the fourth line of that 10:57:03

10 same paragraph, there's a reference to the serviced 10:57:06

11 instruments meeting the quality and functional 10:57:14

12 requirements of a new device. 10:57:17

13 Do you see that? 10:57:20

14 A Yes. 10:57:20

15 Q How did SIS confirm that the serviced 10:57:21

16 EndoWrists met the quality and functional requirements 10:57:26

17 of a new device? 10:57:30

18 A We relied on the expertise of our 10:57:31

19 technical partner, Rebotix. 10:57:39

20 Q Did SIS have access to the specifications 10:57:42

21 or design files for the EndoWrist devices? 10:57:52

22 MR. VAN HOVEN: Objection to form. 10:57:54

23 THE WITNESS: I'm not a technical guy, so 10:57:56

24 I would -- so I was not involved or made privy to that 10:58:03

25 information, so I couldn't answer that question. 10:58:07

1 BY MR. CHAPUT: 10:58:09

2 Q Who would be able to answer that question? 10:58:09

3 A Greg Posdal. 10:58:10

4 Q If you would turn forward to the page 10:58:13

5 ending in 123, please, in the -- this is under the 10:58:30

6 heading "Additional information," and there's a -- the 10:58:44

7 first bullet point there is (as read): 10:58:46

8 EndoWrist functionality and safety 10:58:47

9 are not affected by the repair. 10:58:49

10 Do you see that section? 10:58:52

11 MR. VAN HOVEN: And, Mr. Johnson, feel 10:58:53

12 free to look at the document and understand the context 10:58:55

13 before you jump into isolated bullet points. 10:58:56

14 THE WITNESS: Okay, I'm ready. 10:59:24

15 Can you answer that question again, 10:59:26

16 please? 10:59:28

17 BY MR. CHAPUT: 10:59:28

18 Q Yes. 10:59:29

19 So, looking at the second bullet under the 10:59:29

20 functionality and safety bullet, there's a reference to 10:59:35

21 extensive analysis and formal testing. 10:59:37

22 Do you see that? 10:59:41

23 A Yes. 10:59:41

24 Q Did SIS perform that testing? 10:59:41

25 A No. 10:59:51

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

1 Q Did SIS have any role in the testing 10:59:51
2 described in that bullet? 10:59:54
3 A No. 10:59:58
4 Q Did SIS have any oversight over the 10:59:58
5 testing that was referred to in that bullet? 11:00:03
6 A No. 11:00:12
7 Q Did SIS have access to the complete 11:00:12
8 results of the testing described in this section? 11:00:17
9 A I do believe that Greg did have 11:00:25
10 extension -- extensive -- looked into this when he was 11:00:30
11 in the facility and the lab and went through most of 11:00:34
12 this stuff. I did not personally, but that was 11:00:37
13 something that Greg did. 11:00:39
14 Q And you don't know one way or the other 11:00:42
15 whether he was given access to the complete results; 11:00:44
16 correct? 11:00:51
17 A I -- I do believe we were shown 11:00:51
18 everything, all the testing results. 11:00:56
19 Q Moving down a few bullets, this is three 11:00:57
20 bullets up from the bottom of the page, there's a 11:01:04
21 statement (as read): 11:01:06
22 The service process is performed 11:01:06
23 under a formal quality control system. 11:01:09
24 Do you see that bullet? 11:01:12
25 A Yes. 11:01:12

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1 Q Was that SIS's formal quality control 11:01:13
2 system? 11:01:18
3 A No. 11:01:22
4 Q And there's a reference in that same 11:01:22
5 sentence to "formal procedures." 11:01:25
6 Were those SIS's procedures? 11:01:26
7 A No, those were Rebotix's procedures. 11:01:29
8 Q Moving down to the next bullet, it begins 11:01:36
9 (as read): 11:01:36
10 SIS provides continuing technical 11:01:39
11 support to ensure the final quality of the 11:01:42
12 serviced instruments. 11:01:44
13 Do you see that bullet? 11:01:46
14 A Yes. 11:01:47
15 Q Who at SIS provided that technical 11:01:47
16 support? 11:01:50
17 A That support was provided by Rebotix. 11:01:59
18 Q Moving to the end of this bullet that 11:02:04
19 we're looking at, there's a reference to a formal 11:02:07
20 surveillance system for field issues. 11:02:10
21 Do you see that? 11:02:23
22 A Okay. Yes. 11:02:23
23 Q Did someone at SIS run that formal 11:02:24
24 surveillance system? 11:02:28
25 A I am not familiar with the formal 11:02:46

1 surveillance system. 11:02:48

2 Q Let's move on to the next document in this 11:02:51

3 set, this is the document ending 124, it's just a 11:02:55

4 one-page document with the title on the left side of 11:02:58

5 the document "da Vinci EndoWrist Repairs." 11:03:01

6 Do you -- do you recognize this document? 11:03:07

7 A Yes. 11:03:19

8 Q Who at SIS wrote the da Vinci EndoWrist 11:03:20

9 repairs document? 11:03:26

10 A I don't know if I could give you a 11:03:26

11 specific name of who wrote this, but Greg and I were 11:03:40

12 involved in the production. 11:03:43

13 Q Was the content for the da Vinci EndoWrist 11:03:43

14 repairs document also provided by Rebotix? 11:03:48

15 A I would say some of it, but I wouldn't 11:03:54

16 think all of it. 11:04:04

17 Q What content would Si have provided? 11:04:06

18 A On any of the documents, we would have 11:04:11

19 provided more of the data around the customer service 11:04:20

20 side to the hospital, so any of the hospital process 11:04:22

21 would come from us. 11:04:26

22 The technical data, the testing data would 11:04:28

23 have come from the robotic -- the Rebotix testing. 11:04:32

24 Q Okay. So just looking specifically at the 11:04:35

25 document with the Bates number 124, which is just a 11:04:39

1 one-page document, on this page, what of the material 11:04:42

2 would SIS have provided as opposed to Rebotix? 11:04:46

3 A I don't have that knowledge, I'm not sure. 11:04:59

4 Q Looking at the list of five bullet points 11:05:13

5 under the heading "Important facts," is that 11:05:17

6 information that Rebotix would have provided? 11:05:20

7 A I would assume it was provided by Rebotix. 11:05:23

8 Q In the second bullet, it reads (as read): 11:05:49

9 The repair of a da Vinci EndoWrist 11:05:53

10 does not alter the intended use, method of 11:05:55

11 use, functionality, or performance of the 11:05:58

12 device in any way. 11:06:00

13 What did SIS do to confirm the accuracy of 11:06:03

14 that statement? 11:06:05

15 MR. VAN HOVEN: Objection to form. 11:06:07

16 THE WITNESS: Like I had stated earlier, 11:06:13

17 based on the relationship with Benjamin Biomedical and 11:06:15

18 Rebotix, we had all belief in their testing and the 11:06:20

19 longstanding relationship that the data we were 11:06:24

20 provided was correct. 11:06:26

21 BY MR. CHAPUT: 11:06:28

22 Q Apart from SIS's existing relationship 11:06:38

23 with Benjamin Biomedical and the data that Rebotix 11:06:40

24 provided to SIS, it did nothing to confirm the accuracy 11:06:46

25 of the second bullet on page 124; is that correct? 11:06:49

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

1 MR. VAN HOVEN: Objection to form. 11:06:54

2 THE WITNESS: I would say initially that 11:06:54

3 is correct; but, after working the program, having 11:07:12

4 conversations with customers, and understanding, I 11:07:14

5 would have been very comfortable to say that -- that 11:07:19

6 that statement is a hundred percent the truth from our 11:07:22

7 experience of working with customers. 11:07:25

8 BY MR. CHAPUT: 11:07:26

9 Q And you're referring to the somewhere 11:07:29

10 between 30 and 50 repairs that SIS facilitated for 11:07:33

11 customers; is that right? 11:07:36

12 A 30 to 50 hospitals. 11:07:38

13 Q How many repairs total did SIS facilitate? 11:07:40

14 A Oh, boy, on the Si repair program? 11:07:45

15 Q Correct. 11:07:51

16 A I don't know that I have that number. 11:07:51

17 Q Let's look at the third bullet, please (as 11:07:57

18 read): 11:07:57

19 The da Vinci robot interacts with 11:07:59

20 the repaired EndoWrist identically and the 11:08:02

21 robot cannot be affected by the repaired 11:08:05

22 device in any way. 11:08:07

23 Do you see that statement? 11:08:09

24 A Yes. 11:08:09

25 Q Apart from SIS's existing relationship 11:08:10

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1 with Benjamin Biomedical and the data that Rebotix 11:08:14

2 provided to SIS, did SIS do anything to confirm the 11:08:17

3 accuracy of that third bullet? 11:08:22

4 MR. VAN HOVEN: Objection to form. 11:08:23

5 THE WITNESS: Not that I know of. 11:08:37

6 BY MR. CHAPUT: 11:08:37

7 Q Looking at the fifth bullet, it reads (as 11:08:46

8 read): 11:08:46

9 A repaired EndoWrist is not an 11:08:50

10 alternative or replacement device, it is 11:08:52

11 an original da Vinci manufactured device 11:08:54

12 that has been repaired to original 11:08:57

13 specifications. 11:09:00

14 Apart from SIS's existing relationship 11:09:00

15 with Benjamin Biomedical and the data that Rebotix 11:09:02

16 provided to SIS, did SIS do anything to confirm the 11:09:05

17 accuracy of the fifth bullet? 11:09:08

18 A I believe that falls under our normal 11:09:17

19 repair process that we have stood behind for the 50 11:09:19

20 years we've been in a business that a repaired device 11:09:24

21 is repaired back to its original specifications. 11:09:27

22 Q My question is a bit different, though, 11:09:33

23 Mr. Johnson, which is whether SIS did anything to 11:09:39

24 confirm that that statement was accurate specifically 11:09:41

25 with respect to EndoWrist devices? 11:09:44

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

1 MR. VAN HOVEN: Objection to form. 11:09:47

2 THE WITNESS: The best I can answer that 11:09:58

3 is, from a sales and customer service side, I do not 11:10:11

4 know. What was done through our people at the lab and 11:10:15

5 testing through Greg and our engineers, I -- I can't -- 11:10:19

6 I don't know. 11:10:25

7 BY MR. CHAPUT: 11:10:29

8 Q Let's turn to the next page, please, this 11:10:31

9 is the page ending 125, which is another one-page 11:10:33

10 document with the title on the left side "da Vinci 11:10:39

11 EndoWrist Repair Process." 11:10:42

12 Do you recognize the repair process 11:10:45

13 document, Mr. Johnson? 11:10:46

14 A Yes. 11:10:55

15 Q Who at SIS wrote the repair process 11:10:55

16 document? 11:10:58

17 A Greg and myself. 11:10:58

18 Q And where did the content for the repair 11:11:12

19 process document come from? 11:11:14

20 A Greg, myself, and the team, the marketing 11:11:28

21 team at SIS. 11:11:30

22 Q Did Rebotix contribute to the content of 11:11:31

23 the repair process document? 11:11:34

24 A I do not believe so, no. 11:11:36

25 Q So in the repair process document that 11:11:56

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1 we're looking at, there -- there's a first section that 11:12:05
2 refers to "initial service on an EndoWrist device" and 11:12:07
3 then a second section referring to "ongoing service." 11:12:11
4 Do you see those two sections? 11:12:16
5 A Yes. 11:12:17
6 Q And so am I correct in reading that to say 11:12:17
7 that SIS would reset the use counter on an EndoWrist 11:12:22
8 more than one time? 11:12:29
9 A We had the capabilities to do that, yes. 11:12:37
10 Q How many times would SIS reset the use 11:12:41
11 counter on an EndoWrist device? 11:12:45
12 MR. VAN HOVEN: Objection to form. 11:12:47
13 THE WITNESS: During our independent 11:12:54
14 studies, we had been through -- we had tested up to 50 11:12:56
15 sterilizations, so to answer your question, I guess 11:13:03
16 five. 11:13:12
17 BY MR. CHAPUT: 11:13:12
18 Q So you referred to SIS's independent 11:13:16
19 studies. 11:13:18
20 Are those -- are -- maybe -- maybe I'm 11:13:18
21 missing something. 11:13:22
22 Who performed those -- those studies? 11:13:22
23 A Rebotix. 11:13:25
24 Q Okay. So those aren't SIS studies? 11:13:30
25 A Correct. 11:13:32

1 A We were doing the repair on the EndoWrist. 11:55:06

2 Q You were still offering that in June of 11:55:08

3 2020? 11:55:12

4 A I believe so, yes. I don't remember -- I 11:55:20

5 don't think we had started the recovery program yet, so 11:55:22

6 I think all those services at that point were still 11:55:25

7 wrapped around the Si. 11:55:27

8 Q And there's no mention on here of the 11:55:30

9 da Vinci surgical system or the robot itself; is that 11:55:42

10 right? 11:55:42

11 A Correct. 11:55:45

12 Q Does SIS have the capability to perform 11:55:45

13 any repairs or services on the da Vinci robot itself? 11:55:47

14 A No. 11:55:53

15 Q Has SIS ever explored doing that? 11:55:53

16 A Yes. 11:56:02

17 Q When? 11:56:02

18 A I don't remember specific dates, but over 11:56:08

19 the last couple years we've been approached by a number 11:56:15

20 of hospitals of asking what services we could help 11:56:18

21 provide on their da Vinci program. 11:56:22

22 Q And what has the response been from SIS? 11:56:23

23 A We currently do not have any programs for 11:56:29

24 the robot itself, but it is something that is an 11:56:32

25 ongoing -- we are looking into ongoing opportunities to 11:56:34

*** CONFIDENTIAL ATTORNEYS EYES ONLY ***

1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, in
5 and for the State of California, do hereby certify:

6 That, prior to being examined, the witness
7 named in the foregoing deposition was by me duly sworn
8 to testify as to the truth, the whole truth, and
9 nothing but the truth;

10 That said deposition was taken before me
11 at the time and place therein set forth, and was taken
12 down by me stenographically and thereafter transcribed
13 via computer-aided transcription under my direction and
14 is a true record of the testimony given;

15 I further certify I am neither counsel
16 for, nor related to, any party to said action, nor
17 interested in the outcome thereof;

18 IN WITNESS WHEREOF, I have hereto
19 subscribed my name this 5th day of November, 2022.

20
21
22
23 
24

25 Vickie Blair, CSR No. 8940, RPR-CRR